

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SUZANNE CARUSO,

Plaintiff,

v.

JOSEPH OCCHIOGROSSO, PATRICK
WELSH and SHOP TO EARTH,

Defendants.

Civil Action

No. 2:11-cv-01951-DMC-MF

**NOTICE OF MOTION FOR
DISMISSAL PURSUANT TO RULES
12(b)(7), 19 AND 12(b)6**

TO: JOSEPH A. DEER, ESQ.
Bashwiner & Deer, LLC
6 Pompton Avenue
Cedar Grove, New Jersey 07009

John G. Horn, Esq.
Harter Secrest & Emery LLP
12 Fountain Plaza, Suite 400
Buffalo, NY 14202-2293

PLEASE TAKE NOTICE that on April 7, 2014 Schenck, Price, Smith & King, LLP, attorneys for defendant Joseph Occhiogrosso, shall move the Court for an Order, pursuant to Fed. R. Civ. Pro. 12(b)(7) and 19, dismissing the first cause of action in the amended complaint for failure to join a necessary and indispensable party and, pursuant to Rule 12(b)(6) for an Order dismissing the second cause of action in the amended complaint for failure to state a claim.

PLEASE TAKE FURTHER NOTICE that the Affirmation of Joseph J. Hocking, Esq., and the Affidavit defendant Joseph Occhiogrosso are submitted in support of this motion, along with a Memorandum of Law.

Dated: Florham Park, New Jersey
February 28, 2014

SCHENCK, PRICE, SMITH & KING, LLP

/S/ Joseph J. Hocking
Joseph J. Hocking (2007)
220 Park Avenue, P.O. Box 991
Florham Park, New Jersey 07932-0991
(973) 539-1000
jjh@spsk.com
Attorneys for Defendant. Joseph Occhiogrosso

CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2014, I caused the foregoing Notice of Motion for Dismissal, together with all supporting papers, to be filed and served by CM/ECF upon all counsel of Record.

/s/ Joseph J. Hocking
Joseph J. Hocking (2007)